

ALAMEDA COUNTY SUPERIOR COURT
APPLICATION FOR APPOINTMENT TO ADR PANELS
including Judicial Arbitration, Mediation, Neutral Evaluation, and Private Arbitration

1. APPLICANT:

Applicant's Name: David M. Sternberg
Firm Name: Sternberg & Coad-Hermelin LLP
Address: 540 Lennon Lane
City/State/Zip: Walnut Creek, CA 94598
Telephone: (925) 946-1400 **Fax:** (925) 946-1400
Email: DMSLaw@ix.Netcom.com

2. PANEL REQUEST: *(All applicants are requested to serve as Judicial Arbitrators)*

Check each panel for which you are applying: ☐ Judicial Arbitration
☒ Mediation ☐ Neutral Evaluation ☐ Private Arbitration

3. EDUCATION:

<u>Dates (from-to)</u>	<u>College/University/Law School</u>	<u>Degree Obtained</u>
1970-1974	Antioch College	BA
1974-1974	Sangamon State University	---
1977-1980	Golden Gate University	JD

4. LEGAL EXPERIENCE: State Bar No. 96107 Date Admitted: 1980

A. Are you a member in good standing of the State Bar of California? ☒ Yes
☐ No

B. Are you a retired judicial officer? ☐ Yes ☒ No
Please describe when/where you last served as a judicial officer:

C. Are you actively engaged in the practice of law at this time? ☒ Yes
☐ No

If not, are you retired from practice? _____

Date retired: _____

If your license is presently inactive, please explain:

D. Are you currently active in litigation practice? ☒ Yes ☐ No

Approximately what percentage of your practice involves litigation? 90%

E. If your practice includes personal injury litigation, approximately what percentage of your practice involves the representation of: plaintiffs 60% ; of defendants 40%?

F. How many of the following have you personally handled as attorney of record in the past five years? Jury Trials 1; Court Trials 21; Mediations 15; Arbitrations 2;

G. Describe any legal publications or teaching you have done: Bankruptcy and Civil Litigation - Contra Costa County Bar Journal; article in the June, 1993 Contra Costa Lawyer entitled "Civil Litigation in the Shadow of Bankruptcy"

5. ADR TRAINING and EXPERIENCE

Course Title	Sponsoring Organization	Hours of Credit	Dates
<u>Mediation Training</u>	<u>Steven Rosenberg</u>	<u>40</u>	<u>3/03</u>

A. Number of years experience as: mediator 0; arbitrator 12; neutral evaluator 0;

B. List all other court-connected ADR panels of which you are a member, specifying the processes for which you have qualified: Contra Costa County Superior Court - Arbitrator, approximately 12 years

C. State the name(s) of any organization(s) through which you have provided ADR services during the past five years, giving the dates and the services you provided: 1, private mediation

D. Describe the subject matter of five disputes in which you served as the ADR provider in the past 5 years, including the dates of service, the process and if you were sole or co-provider.

1. Real Estate;
2. _____;
3. _____;
4. _____;
5. _____;

E. Is your ADR style best described as _____ facilitative or X evaluative/directive?

F. Describe any ADR related publications or training you have done: None

G. Set forth your hourly fee or fee schedule, including any sliding scale or pro bono provisions.

Attach a copy of your fee agreement. (Please note: Judicial arbitrators waive compensation for the first three (3) hours of hearing time in Alameda County and all ADR panelists are requested to accept at least three (3) Judicial arbitration cases per year).

\$285 per hour

6. AVAILABILITY/SPECIAL REQUIREMENTS

A. List any languages, other than English, in which you are able to conduct ADR proceedings:

B. Please state any special bi-cultural/multi-cultural capabilities or familiarity you possess:

C. You are available to conduct ADR conferences: X in your office; _____ at counsel's office; _____ other (please describe: _____)

D. You are available to conduct ADR proceedings: X during regular office hours; X evenings by appointment; _____ weekends by prior arrangement;

E. Please describe any requirements you have for ADR participants such as submission of copies of pleadings, briefs, declarations in lieu of testimony, etc.: I request a copy of pleadings and accept briefs or declarations three days prior.

7. SUBJECT MATTER DESIGNATION

Please check each area below in which you are qualified by training/experience to provide ADR services, indicating the percentage it represents of your law practice, if any, and the ADR process(es) which you are prepared to offer in that area:

Case Type Accepted	% of Practice	Judicial Arb.	Mediation	Neutral Eval.	Private Arb.
Bankruptcy	15	X	X		
Business/Corp.	15	X	X		
Civil Rights					
Collections	5		X		
Construction	5	X	X		
Contracts	5	X	X		
Elder law/abuse					
Employment					
-Discrimination					
-Harassment					
-Termination					

Case Type Accepted	% of Practice	Judicial Arb.	Mediation	Neutral Eval.	Private Arb.
Environmental	2		X		
Fraud	5	X	X		
False Imprison.					
Family Law					
HO Ass'n	2		X		
Insurance Cov.					
Intellect. Property					
Landlord-Tenant	4		X		
Legal Malpractice	2				
Maritime					
Med Malpractice					
Partnership	5		X		
P.I. - Auto					
P.I. - Other					
Premises Liability					
Probate/Trust	5		X		
Product Liab.					
Real Property	30	X	X		
Securities					
Tax					
Toxic Torts					
Wrongful Death					
Other:					

ATTACHMENT TO APPLICATION FOR APPOINTMENT

This attachment is submitted to provide additional information about David M. Sternberg and his experience for appointment to the ADR Panel.

Special Experience:

1. I have extensive experience in actual trial work and in litigation management as the managing litigation partner of Grant & Sternberg for 15 years from 1984 until 1999 and since 1999 I have managed litigation in three firms. I further have had extensive experience in analyzing the worst and best case scenarios in an extensive array of varied types of civil litigation including but not limited to: real estate, construction, bankruptcy, dischargeability, collections, banking, landlord/tenant, professional negligence (attorney, real estate broker, contractor and appraisers), property damage and bodily injury.
2. I am a certified specialist in personal and small business bankruptcies certified by the State Bar of California and bring that knowledge of bankruptcy into the state court litigation process.
3. My ADR approach. I believe that the best ADR approach is the one that is required by the specific situation. For example, a neighborhood boundary dispute, a corporation or partnership management dispute, a homeowners' association dispute, a joint ownership real estate dispute or any dispute where the parties will have an ongoing relationship, should usually be conducted by utilizing a facilitative approach. Facilitative approach means helping the parties to work out their agreement with minimal interference by the mediator except to make sure that the process is continuing and effective. In other civil disputes where the primary result is payment of money, a more evaluative or directive approach is best because the parties need help determining and understanding the worst case scenario and the best case scenario for their case so that a good decision can be made on settlement. I can also assist parties with their negotiation strategies to help each party obtain what is best for them.

STERNBERG & COAD-HERMELIN LLP

ATTORNEYS AT LAW
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Walnut Creek, CA 94598
(925) 946-1400
Facsimile (925) 256-3950

David M. Sternberg
Attorney/Mediator
Our File: *

MEDIATION AGREEMENT

This Mediation Agreement is entered into with the intent of resolving the disputes of the parties. This also sets forth the responsibility of the parties and their attorneys.

1. Appointment of Mediator

The Parties hereby appoint David M. Sternberg as Mediator. The Parties understand that this Mediation Conference is a process in which the Mediator assists the Parties in reaching an agreement intended to resolve their disputes, but that the Mediator has no power to decide any issues for the Parties. The Parties also understand that the Mediator must remain impartial at all times throughout the process and will not favor the interests of any party over another.

The Parties further understand that the Mediation Conference is not a substitute for independent legal advice, and that the Mediator, even though he is a licensed attorney, cannot render legal advice to any party, although he will provide his neutral evaluation of the facts and applicable law during the Mediation Conference. The Parties are encouraged to secure legal advice throughout the process from his or her own legal counsel.

2. Intent of the Parties

The Parties hereby state their intentions to participate in good faith and use their diligent efforts in presenting their position and legal arguments during the Mediation Conference so that the process will be meaningful and productive for the Parties.

The Parties agree that the Mediator may suspend or terminate the Mediation Conference if he determines that the Parties are no longer participating meaningfully or that he can no longer effectively perform his mediator role.

3. Confidentiality

It is understood between the Parties and the Mediator that the Mediation Conference will be strictly confidential and private and that no participant in the Mediation Conference will reveal to any other person anything that takes place during the Mediation Conference. The provisions of California Evidence Code Sections 703.5 and 1118, *et seq.* shall apply. No transcript or record of any kind, except for the private notes of the participants, shall be kept. No testimony shall be taken and no person may be served with legal process at the Mediation Conference. At the end of the Mediation Conference the Mediator will destroy any notes that he has made during the process.

For the purpose of this paragraph 3, the Mediation process shall be deemed to have commenced on the scheduled mediation date. Notwithstanding the foregoing, it is specifically agreed that any signed document that embodies the terms of any resolution of the dispute that might arise from or during the Conference will be admissible in any legal action for its enforcement and nothing shall make this Mediation Conference Agreement inadmissible in any action or proceeding.

The Parties also understand that the Mediator may have private caucus meetings and discussions with any individual party, either before or during the Mediation Conference, in which case all such meetings and discussions shall be confidential between the Mediator and the caucusing party.

Subject to the terms of the California Evidence Code Section 703.5, the Mediator shall not be competent to testify in any subsequent civil proceeding as to any matter that took place during the Mediation Conference. The Parties agree not to attempt to require the Mediator to testify or to provide any written materials from the Mediator's files in any court proceeding, whether between the Parties or otherwise. The Mediator shall be entitled to reimbursement of reasonable attorneys' fees and costs from any party or attorney who attempts to compel testimony or production of documents in violation of the terms of this Agreement.

4. Mediation Conference Fees

The Parties, by and through their respective counsel, agree to reimburse the Mediator for all time expended in furtherance of the Mediation Conference, including document review and preparation time, at the rate of \$285.00/hour, to be divided equally among the Parties.

The Parties agree to pay the Mediator their proportionate share of an amount equal to a one day charge (3.5 hour charge @ \$285.00/hour - \$997.50 from each party) no later than thirty (30) days before the scheduled mediation. The balance of the Mediator's fee, if any, shall be paid by the Parties within thirty (30) days of receipt of the Mediator's written invoice. Any unused portion of this retainer shall be reimbursed to the Parties upon the conclusion of the Mediator's services in this matter.

5. Signatures

This agreement may be executed in counterparts, each of which may be executed by less than all of the Parties, and all of which together shall constitute one instrument. The attorneys for the Parties shall sign this Agreement, but only for the purpose of agreeing to the terms of Paragraphs 3 and 4.

Dated: _____
[NAME]

Dated: _____
[NAME]

Dated: _____
[NAME]

Dated: _____
[NAME]

Agreed to as to Paragraphs 3 and 4 above and approved as to form:

Dated: _____ [LAW FIRM NAME]

[Attorney]
Attorneys for
[PARTY]

Dated: _____ [LAW FIRM NAME]

[Attorney]
Attorneys for
[PARTY]